S.B. Civil Misc. Appeal No. 1100/2006
(Ahmed Khan Vs. Deepan Ram & anr.)

Date of Order :: 5th January 2007.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.Sandeep Sarupariya for the appellant

For quantification of compensation to be awarded to the claimant-appellant, about 32 years in age and said to be earning while being engaged in the job of loading and unloading of stone boulders, for the loss suffered by him due to the injuries sustained in accident, the Tribunal has taken note of nature of injuries of fracture of tibia and fibula bones and 10.33% permanent partial disablement and has allowed Rs.51,000/- towards loss of earning capacity, Rs.7,000/- towards physical pain, Rs.1,200/- towards 4 days' hospitalisation, Rs.9,600/- towards loss of earning during treatment period of four months, and Rs.2,000/- towards special diets. In this manner, the Tribunal has proceeded to award compensation in the sum of Rs.70,800/- to the claimant and has allowed interest at the rate of 7.5% per annum.

It is contended on behalf of the appellant that the Tribunal has not allowed adequate amount towards non-pecuniary loss and hospitalisation.

Having heard learned counsel for the appellant and having examined the record, this Court is satisfied that the award of compensation made by the Tribunal, though moderate, cannot be said to be too low or grossly inadequate.

The claimant-appellant suffered compound fracture of leg bones and remained hospitalised for 4 days as is borne out from the discharge ticket Ex.13. The Medical Board has stated in its percentage disability certificate Ex.14 about fracture having united but of 2.5 cm shortening of right lower limb and partial ankylosis and restriction of movement leading to 10.33% disablement. The claimant has stated himself being engaged in private job of loading and unloading of stone boulders. In the overall circumstances of the case, the Tribunal has put an estimate on his income at Rs.2,400/- per month and with reference to the disablement certificate has allowed pecuniary loss at Rs.51,000/- and another Rs.9,600/- towards loss of income for four months' treatment period. The Tribunal has also allowed Rs.7,000/- towards injuries, Rs.2,000/- towards special diets and Rs.1,200/- towards 4 days'

hospitalisation. Of course, the Tribunal has not allowed any separate amount towards non-pecuniary loss and so also towards attendants but when the amount of pecuniary loss itself stands rather on higher side, in the ultimate analysis, the award appears to be not less than that of just compensation and there appears no scope for enhancement.

The appeal fails and is, therefore,dismissed summarily.

(DINESH MAHESHWARI), J.

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